IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Hanuman Ram Vs. State of Raj. & others

S.B.CIVIL WRIT PETITON NO.2381/2006

Date of order : 15th May, 2006

PRESENT

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Mr.B.L.Maheshwari for the petitioner

BY THE COURT:

The petitioner Hanuman Ram, describing himself as resident of village Nandia Prabhawati, being holder of a driving licence to drive heavy vehicles, at present being a driver at a truck of one Chokha Ram, and allegedly sharing business with him; has submitted this writ petition with the averments about location of his village enroute Jodhpur-Bhopalgarh-Asop-Mundwa-Kuchera-Khajwana-Merta City-Pipar City-Gaguda existing amalgamated route and about the difficulties of the traveling public because of reduction of daily services by the State Road Transport Corporation on the route. According to the petitioner, one Ram Vilas, an erstwhile permit holder on Merta City to Baori route, met him on 26.02.2006 and informed that the transport services on Merta City to Baori route

have deteriorated after it was notified; and now it was the turn of Jodhpur-Bhopalgarh amalgamated route (to be notified) for which a proposal has been published. The petitioner has alleged that upon enquires he came to know about publication of notification dated 12.09.2005 on the proposal regarding Jodhpur-Bhopalgarh scheme and that the government has invited objections from the persons aggrieved within a period of thirty days from the date of publication of notification. The petitioner preferred objections, allegedly after taking legal advice, but the Secretary to the Government in Transport Department rejected such objections as incompetent by the order dated 27.03.2006 (Annex.6).

Aggrieved, the petitioner has submitted this writ petition seeking the reliefs that Rule 6.3 of the Rajasthan Motor Vehicle Rules, 1990 ('the Rules' for short), may be declared void; the notification dated 12.09.2005 and the impugned order dated 27.03.2006 may be quashed; and it be held that the petitioner is 'any person' entitled to prefer objections under sub-section (1) of S.100 of Motor Vehicles Act, 1988 ('the Act of 1988' for short).

It appears that objections were submitted by the petitioner before the Secretary with the submissions that Rule 6.3 of the Rules limiting the objections to be filed only by the person affected by the scheme, is contrary to Section 100 (1) of the Act of 1988 which provides that objections could be submitted by 'any person'. The learned Secretary dealt with the objections and held that there was

no inconsistency in the provisions of the Rules and the Act of 1988 and the expression ‘any person’ directly refers to an affected person and not a stranger. It was found that the petitioner did not submit the objections within thirty days of the date of publication of the notification and hence, the objections were rejected.

Mr.B.L.Maheshwari, learned counsel for the petitioner has strenuously contended that when the provisions of the principal enactment in Section 100 of the Act of 1988 provide for maintainability of objections by ‘any person’, the provision in the Rules limiting it to be filed only by the person affected stands contrary to the Act; and to that extent the Rule remains invalid. Mr.Maheshwari has referred to the provisions of Section 68-D of the Motor Vehicles Act, 1939 (‘the Act of 1939’ for short) and submitted that earlier there were only specific category of persons who could have submitted objections but the corresponding Section 100 of the Act of 1988 has omitted such restriction and has provided for maintainability of objections by ‘any person’ and, therefore, the Rule limiting the objections only by the persons affected is invalid. Learned counsel submitted with reference to the decision of the Hon’ble Supreme Court in the case of Union of India and another Vs. Deoki Nandan Aggarwal : AIR 1992 SC 96 that when the language of the statute is plain and unambiguous, natural meaning ought to be provided and the court cannot enlarge or limit the scope of the legislation. Learned counsel submitted that the order dated

27.03.2006 remains void and illegal and the respondent No.2 has erred in rejecting the objections of the petitioner and in observing that there was no discrepancy between the provisions of Section 100 (1) of the Act of 1988 and Rule 6.3 of the Rules. Learned counsel submitted that in view of phraseology of Section 100 of the Act of 1988, a person even if not aggrieved could maintain his objection. On being questioned about the effect of the fact that the petitioner has even otherwise not filed objections within thirty days of publication of the notification, learned counsel submitted that the notification limiting the objections only by the persons affected could be challenged any time and also submitted that the petitioner has pointed out that he came to know about the notification on 26.02.2006 through a previous bus operator and from the date of knowledge has rightly submitted the objections on 04.03.2006. On further being questioned about the averments as occurring in paragraph (f) of the objection petition (Annex.9) in which the petitioner as objector has stated the so-called particulars of the route in 'his permit' from Jodhpur to Khinvsar via Chainpura etc., learned counsel candidly submitted that there were other objections submitted by permit holders and it seems that the particulars of one such permit got incorporated in this objection petition inadvertently.

Having given a thoughtful consideration to the submissions of the learned counsel for the petitioner and having examined the law applicable to the case, this Court is clearly of opinion that this writ

petition remains bereft of substance and deserves to be rejected without being admitted.

The hyper-technical questions sought to be posed by the petitioner on the validity of Rule 6.3 of the Rules remain fundamentally baseless. Chapter-VI of the Act of 1988 makes special provisions relating to State Transport Undertakings. Section 99 therein provides for preparation and publication of proposal regarding road transport service of a State Transport Undertaking; and such proposal is formulated by the Government on its opinion that for the purpose of providing efficient, adequate, economical and properly co-ordinated road transport service it was necessary in the public interest that the transport services in general or of any particular class for any area or route or portion thereof should be run by the State Transport Undertaking whether to complete or to partial exclusion of other persons or otherwise. Such proposal is published in the Gazette and in at least one newspaper circulating in the area in question. Sub-section (1) of Section 100 of the Act of 1988 provides for filing of objections in relation to such proposal regarding the scheme and reads as under:-

> "(1) On the publication of any proposal regarding a scheme in the Official Gazette and in not less than one newspaper in the regional language circulating in the area or route which is to be covered by such proposal any person may, within thirty days from the date of its publication in the Official Gazette, file objections to it before the State Government."

The Rules in Chapter-VI of the Rajasthan Motor Vehicles Rules, 1990 have been framed for carrying into effect the provisions of Chapter-VI of the Act of 1988 by virtue of the powers of the State Government to make such Rules under Section 107 of the Act of 1988. The Rules provide for the form in which proposal regarding scheme may be published; the manner in which the objections may be filed and disposed of; and the approved scheme may be published etc. Rule 6.3 therein reads as under:-

> **"6.3. Manner of filing objections.**-(1) Any person affected by the scheme and wishing to file objections under section 100 of the Act shall do so in the form of a memorandum in duplicate, setting-forth concisely the ground of objections to the scheme within 30 days of the publication of the scheme in the Official Gazette.
> (2) The memorandum of objection shall be addressed to the Secretary to the Government of Rajasthan in the Transport Department.
> (3) A copy of the memorandum shall be sent by the objector to the Managing Director of Rajasthan State Road Transport Corporation.
> (4) The memorandum of objections shall also contain the following information:-
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> (i) full name and permanent address of the objector;
> (ii) whether or not such person is holder of a permit issued under the provisions of the Act.
> (iii) the particulars of the route or routes as specified in such permit or permits.
> (iv) The manner in which objector is affected by the scheme."

Mainstay of the submissions of learned counsel for the petitioner has been that the Act of 1988 provides for maintainability of the objections by 'any person' whereas the Rules have restricted it to 'any person affected by the scheme' and, therefore, the Rule is invalid. The contention is not correct. Upon publication of proposal regarding a scheme under Section 99 of the Act of 1988, the objections are open to be filed within thirty days by any person. The purpose of such provisions in Section 100 of the Act is to provide adequate opportunity to any concerned person to put forward his objections, if he so desires. Obviously, when objections are to be filed, they pre-suppose locus of the objector to file and maintain the objections. Such objections cannot be of an academic exercise and cannot be mere objections bereft of some cause and basis.

It is true that Section 68-D of the Act of 1939 limited the maintainability of such objections only by either the person already providing transport facility along or near the area; any recognized association representing persons interested in providing road transport facility; and the concerned local authority or police authority. On the other hand, now Section 100 of the Act of 1988 does not limit maintainability of objections only by the aforesaid specific class or category of persons; and for that matter could be maintained any person. However, that does not and cannot mean that the legislature has provided for a stranger to walk in and

proclaim his objection without spelling out reasons thereto. Rule 6.3 requiring the objector to show how he is affected by the proposal is nothing but expression of the requirements that are inherent in the very claim of any person to file and maintain the objections. In the very same decision relied upon by the learned counsel for the petitioner in Deoki Nandan Aggarwal (supra), the Hon'ble Supreme Court on the principles of interpretation has pointed out that the court does not add words to a statute but of course adopt a purposive construction to carry out the intention of the legislature. The Hon'ble Supreme Court observed,-

> "The Court of course adopts a construction which will carry out the obvious intention of the legislature but could not legislate itself."

On the very same principles aforesaid, this Court is clearly of opinion that to carry out the real intention of the legislature, if the rule has provided for an objector to spell out as to how he is affected, such rule remains unexceptionable and cannot be said to be contrary to the requirements of the Act.

By the very nature of the action, i.e. filing of objections, the same cannot be undertaken unless there be a cause therefor. For its very maintainability, a cause for such an action remains a sine qua non; and the very fact that "objections" are to be filed, it inheres in it that the objector would set forth his status, locus and the

grievance. It remains elementary that an interpretation is required to put to a provision in law so as to be in conformity with its true intent and purpose and to avoid an interpretation that would lead to illogicality. The suggestion that for the use of word 'any person' the legislature has extended a right to even a causeless stranger to maintain an objection would be nothing but reading mere words without looking at their meaning, intent and purpose.Such interpretation cannot be accepted. Rule 6.3 of the Rules, in the opinion of this Court, does nothing else than merely stating what is inherent and obvious in the provision of Section 100(1) of the Act of 1988; and is, therefore, not invalid.

Apart from the aforesaid, this Court is constrained to observe that so far the petitioner is concerned, even such question about the validity of the Rule remains nothing except academic. Admittedly, the petitioner has not submitted any objection within thirty days of publication of the proposal and even if it be assumed for the sake of arguments that the petitioner could have maintained the objections, it remains undenied and undeniable that he has not filed the objections within thirty days; and the objections as filed by him only on 04.03.2006 were even otherwise fundamentally incompetent. The suggestion that the petitioner came to know about the proposal from another bus operator remains hollow and baseless and does not invest the petitioner with a right to maintain the objections from the alleged date of his knowledge. The proposal having been published

in the Gazette on 12.09.2005 and having also been published in the newspaper, the petitioner, if at all he was concerned with any objection to be filed, ought to have done so within the time provided by the statute. The submissions by the learned counsel that the notification is contrary to Section 100 because only the persons affected have been asked to submit objections and, therefore, the petitioner can maintain his challenge any time, have been stated only to be rejected. The petitioner, if at wanted to raise any objection about the notification, ought to have raised the same within time and cannot be heard to say that in view of the academic questions sought to be raised by him, he could maintain the objection any day any time. The legislature has of course provided for objections to be maintained by any person; but has not provided for them to be maintained at any time. Statutory time of thirty days having expired, the objections by the petitioner were fundamentally incompetent and have rightly been rejected.

The fact that this litigation seems to be a proxy litigation at the instance of the operators on the route in question is obviously highlighted by the fact that the petitioner has, may be inadvertently, stated in his objection petition particulars of ‘his permit’. Learned counsel has fairly conceded that the petitioner holds no such permit. However, the present being the proceedings in the writ jurisdiction of this court, the overall conduct of the petitioner deserve to be taken note of and this court is satisfied that the petitioner had no legitimate

objection in relation to the proposed scheme and the petitioner is not entitled for any relief in the extra-ordinary jurisdiction of this Court.

Viewed from any angle, the writ petition remains bereft of substance and is, therefore, dismissed summarily.

(DINESH MAHESHWARI),J.

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